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FEDERAL COMMUNICATIONS COMMISSION  
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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Parts 1, 21 and 74 to	)	MM Docket No. 97-217
Enable Multipoint Distribution	)	
Service and Instructional	)	
Television Fixed Service Licensees	)	File No. RM-9060
To Engage in Fixed Two-Way	)	
Transmissions	)	

**FURTHER COMMENTS OF BELL SOUTH CORPORATION AND  
BELL SOUTH WIRELESS CABLE, INC.**

BellSouth Corporation and BellSouth Wireless Cable, Inc. (collectively, "BellSouth") hereby submit these Further Comments in response to the FCC's notice seeking comments on the ex parte presentations in this docket filed subsequent to February 9, 1998. Public Notice (DA98-1119) released June 12, 1998. These Further Comments focus on the ex parte presentations made by the Catholic Television Network ("CTN") and the group of over 110 participants in the wireless cable industry that submitted the petition for rulemaking that commenced this proceeding (the "Petitioners").

**DISCUSSION**

BellSouth operates digital wireless video systems using Multipoint Distribution Service ("MDS") and Instructional Television Fixed Service ("ITFS") frequencies in Atlanta and New Orleans. It has plans to launch additional digital video systems in other markets throughout the Southeast. As an incumbent operator, BellSouth has a substantial interest in ensuring that its services to the public do not receive harmful interference from new two-way systems. At the same

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time, BellSouth recognizes the many benefits that are likely to flow to the public if two-way operations are allowed. The proposed rules must strike an appropriate balance between preserving existing service and facilitating new two-way services.

**I. Revised Propagation Model**

BellSouth supports the revised propagation model proposed by Petitioners to predict interference from response stations.<sup>1</sup> Allocating to the grid point the height above mean sea level of the highest point within the square surrounding the grid point should address concerns that the originally proposed grid system could produce skewed results if the actual height of the grid point was materially below the height of surrounding terrain. Moreover, BellSouth agrees with the Petitioners' suggestion that interference studies conducted in support of response station hub and booster station applications include all power generated by the primary station, response stations and booster stations applied for or licensed to the applicant in a given area.<sup>2</sup> Selection of the highest point within each grid and accumulating the power generated by the various stations alleviates concerns by incumbents that the interference methodology will not accurately predict actual interference.

In the event actual interference results to incumbent licensees, it is critical that the FCC Staff resolve interference complaints on an expedited basis. In its Reply Comments in this docket BellSouth recommended a process similar to that proposed by the FCC for resolving tower siting

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<sup>1</sup> Petitioners ex parte filings of May 22, 1998 and June 5, 1998.

<sup>2</sup> Id.

disputes involving digital broadcasters.<sup>3</sup> BellSouth again urges that strong consideration be given to adopting such rules. If the interference methodology is revised as proposed and expedited interference resolution procedures are in place, there would appear to be no rational basis to limit two-way operations to particular channels or to impose a 6 MHz guardband as CTN has requested.

## **II. Interference Protection**

Petitioners advocate that all ITFS receive sites authorized or proposed prior to the filing of an application for two-way authority should receive interference protection from such a later-filed application.<sup>4</sup> CTN argues that all receive sites that are added after the other applicant receives two-way authority also be entitled to interference protection.<sup>5</sup> BellSouth opposes CTN's proposal. There is no need to modify the basic principle that "first-in" proposals should be entitled to interference protection from later-filed proposals. To do so would unnecessarily jeopardize service that, when authorized, fully complied with the relevant interference protection rules. This simply would be unfair and would result in disruption of duly authorized and established service to the public.

Community Telecommunications Network and Petitioners propose that the FCC grant protected service areas ("PSAs") to all ITFS licensees and applicants, including those that do not lease excess capacity, prior to the opening of the filing window for two-way applications.<sup>6</sup>

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<sup>3</sup> Reply Comments of BellSouth, MM Docket No. 97-217, at 19 (filed February 9, 1998).

<sup>4</sup> Petitioners ex parte filings of May 22, 1998 and June 5, 1998.

<sup>5</sup> See e.g., CTN ex parte filing of May 27, 1998.

<sup>6</sup> See Petitioners ex parte filing of March 6, 1998; See also Community Telecommunications Network filing of May 22, 1998.

BellSouth believes this approach would make it considerably more difficult to modify existing stations for digital operations. It also would be an inefficient use of spectrum, since it would require applicants for two-way facilities to protect areas in which there are no receive sites and which may never have such receive sites. Given these practical and policy concerns, BellSouth supports the use of PSA protection for ITFS licensees with respect to the two-way operations of other system operators, regardless of whether they are leasing excess capacity to commercial operators. However, BellSouth does not support the adoption of a rule that would extend to ITFS licensees PSA protection for one-way or so-called downstream operations of other system operators where no excess capacity is leased. This approach strikes a better balance between the concerns of CTN and other educators about precluding new service and the concerns of the Petitioners and other commercial operators about unduly complicating efforts to modify facilities.

### **III. Application Processing**

CTN urges the Commission to adopt an "interim grant" process pursuant to which applicants submitting grantable proposals would receive conditional authorizations to construct facilities if no Petitions to Deny are filed during the 60-day public notice period.<sup>7</sup> Final authorizations would be issued after 180 days of interference-free operation subsequent to completion of construction.<sup>8</sup>

BellSouth strongly opposes CTN's interim grant processing scheme. It is unrealistic to expect commercial operators to make the significant capital investment needed to construct and

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<sup>7</sup> CTN ex parte filing of March 4, 1998.

<sup>8</sup> Id.


launch digital service without any assurance that they will be able to continue to operate longer than 180 days. Moreover, to the extent one or more stations must cease operations, the impact from both a business and a subscriber-relations standpoint would be disastrous, and could very well be the death knell of a fledgling service. It would likely even be difficult to convince a potential customer to subscribe to a service that may be discontinued after 180 days. CTN's notion of sending lists of subscriber locations to third parties raises serious subscriber privacy and competition concerns. BellSouth supports the application processing scheme advanced by Petitioners, with the added refinement of expedited interference resolution procedures.

### **CONCLUSION**

If the public is to realize the full benefits that use of this spectrum promises, it is critical that the ITFS/MDS application process be streamlined. Adoption of technical rules that allow for efficient use of the spectrum and provide MDS licensees, commercial operators and ITFS educators with necessary freedom and flexibility in system design will help ensure continued high quality service to the public and a competitive choice in video services.

Respectfully submitted,

**BELLSOUTH CORPORATION  
BELLSOUTH WIRELESS CABLE, INC.**

By: \_\_\_\_\_

Robert J. Rini  
Steven A. Lancellotta  
Rini, Coran & Lancellotta, P.C.  
1350 Connecticut Avenue, N.W. #900  
Washington, D.C. 20036

**BELLSOUTH CORPORATION**

William B. Barfield  
BellSouth Corporation  
1155 Peachtree Street, N.E.  
Suite 1800  
Atlanta, GA 30309

**BELLSOUTH WIRELESS CABLE, INC.**

Thompson T. Rawls, II  
BellSouth Wireless Cable, Inc.  
1100 Abernathy Road, N.E.  
500 Northpark Town Center  
Suite 414  
Atlanta, GA 30328

July 2, 1998

Their Attorneys

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### **CERTIFICATE OF SERVICE**

I, Yvette King, a secretary with the law firm of Rini, Coran & Lancellotta, P.C., do hereby certify that I caused a copy of the foregoing "Further Comments of BellSouth Corporation and BellSouth Wireless Cable, Inc." in MM Docket No. 97-217 to be mailed first-class, postage prepaid, this 2nd day of July, 1998 to the following:

National Telephone Cooperative Association  
2626 Pennsylvania Avenue, N.W.  
Washington, D.C. 20037  
Attn: L. Marie Guillory, Esq.

Instructional Telecommunications  
Foundation, Inc.  
P.O. Box 6060  
Boulder, CO 80306  
Attn: John B. Schwartz, Esq.

Corporation for Public Broadcasting  
901 E. Street, N.W.  
Washington, D.C. 20004-2037  
Attn: Kathleen A. Cox, Esq.  
Robert M. Winteringham, Esq.

Association of America's Public Television  
Stations  
1350 Connecticut Avenue, N.W.  
Washington, D.C. 20036  
Attn: Marilyn Mohrman-Gillis  
Lonna Thompson

Public Broadcasting Service  
1320 Braddock Place  
Alexandria, VA 22314  
Attn: Gregory Ferenback  
Patricia DiRuggiero

Fletcher, Heald & Hildreth, P.L.C.  
1300 North 17<sup>th</sup> Street, 11<sup>th</sup> Floor  
Rosslyn, VA 22209-3801  
Attn: Paul J. Feldman, Esq.

Abacus Communications Company  
1801 Columbia Road, N.W., Suite 101  
Washington, D.C. 20009-2001  
Attn: Gary Vujnovich, Esq.

Wilkes, Artis, Hedrick & Lane, Chtd.  
1666 K Street, N.W., Suite 1100  
Washington, D.C. 20006  
Attn: Rudolph J. Geist, Esq.

Wilkinson, Barker, Knauer & Quinn, LLP  
2300 N Street, N.W.  
Washington, D.C. 20037-1128  
Attn: Paul J. Sinderbrand, Esq.

Cohn and Marks  
1920 N Street, N.W., Suite 300  
Washington, D.C. 20036-1622  
Attn: Wayne Coy, Jr., Esq.

Law Office of James E. Meyers, P.C.  
1633 Connecticut Avenue, N.W., Suite 400  
Washington, D.C. 20009-1041

NextLevel Systems, Inc.  
Two Lafayette Center  
1133 21<sup>st</sup> Street, N.W., Suite 405  
Washington, D.C. 20036  
Attn: Quincy Rodgers  
Christine G. Grafton  
Faye R. Morrison

NextLevel Systems, Inc.  
2200 Byberry Road  
Hatboro, PA 19040  
Attn: Mark Kolber

Jeffery Krauss, Consultant  
17 West Jefferson Street, Suite 106  
Rockville, MD 20850

Blumenfeld & Cohen – Technology Law  
Group  
1615 M Street, N.W., Suite 700  
Washington, D.C. 20036  
Attn: Glenn B. Manishin

Preston Gates Ellis & Rouvelas Meeds, LLP  
1735 New York Avenue, N.W., Suite 500  
Washington, D.C. 20006  
Attn: Martin L. Stern  
David Rice

Crowell & Moring, LLP  
1001 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004  
Attn: William D. Wallace

Ginsburg, Feldman & Bress, Chartered  
1250 Connecticut Avenue, N.W.  
Washington, D.C. 20036-2603  
Attn: Edwin N. Lavergne  
J. Thomas Nolan

Crowell & Moring LLP  
1001 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004  
Attn: William D. Wallace, Esq.

Dow, Lohnes & Albertson, pllc  
1200 New Hampshire Avenue, N.W.  
Suite 800  
Washington, D.C. 20036-6802  
Attn: Todd D. Gray, Esq.  
Margaret L. Miller, Esq.

Schwartz, Woods & Miller  
1350 Connecticut Avenue, N.W., Suite 300  
Washington, D.C. 20036  
Attn: Robert A. Woods, Esq.

Brown, Nietert & Kaufman, Chartered  
1920 N Street, N.W., Suite 600  
Washington, D.C. 20036  
Attn: Robyn G. Nietert, Esq.  
Rhonda L. Neil, Esq.

Arter & Hadden, LLP  
1801 K Street, N.W., Suite 400K  
Washington, D.C. 20006  
Attn: Robert J. Ungar

Evans & Sill, P.C.  
1627 Eye Street, N.W., Suite 700  
Washington, D.C. 20006  
Attn: Donald J. Evans, Esq.  
William M. Barnard, Esq.

Pepper & Corazzini, L.L.P.  
1776 K Street, N.W., Suite 200  
Washington, D.C. 20006  
Attn: Robert F. Corazzini, Esq.

EDX Engineering, Inc.  
P.O. Box 1547  
Eugene, Oregon 97440  
Attn: Harry R. Anderson, Ph.D., P.E.

Cellular Phone Taskforce  
Post Office Box 100404  
Vanderveer Station  
Brooklyn, New York 11210  
Attn: Arthur Firstenberg, President

The Honorable William E. Kennard\*  
Chairman  
Federal Communications Commission  
1919 M Street, N.W., Room 814  
Washington, D.C. 20554

The Honorable Susan Ness\*  
Commissioner  
Federal Communications Commission  
1919 M Street, N.W., Room 832  
Washington, D.C. 20554

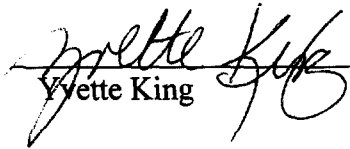
The Honorable Harold W. Furchtgott-Roth\*  
Commissioner  
Federal Communications Commission  
1919 M Street, N.W., Room 802  
Washington, D.C. 20554

The Honorable Michael K. Powell\*  
Commissioner  
Federal Communications Commission  
1919 M Street, N.W., Room 844  
Washington, D.C. 20554



The Honorable Gloria Tristani\*  
Commissioner  
Federal Communications Commission  
1919 M Street, N.W., Room 826  
Washington, D.C. 20554

Barbara A. Kreisman\*  
Chief, Video Services Division  
Federal Communications Commission  
1919 M Street, N.W., Room 702  
Washington, D.C. 20554

  
Yvette King

**\*BY HAND DELIVERY**